

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

\$36,000.00 IN UNITED STATES
CURRENCY,

Defendant.

Civil No. 8:18CV 202

COMPLAINT FOR FORFEITURE *IN REM*

COMES NOW the Plaintiff, United States of America, and for its cause of action against the Defendant, states and alleges as follows:

Nature of the Action

1. This is an action to forfeit property to the United States for violations of 21 U.S.C. § 881.

The Defendant *In Rem*

2. The Defendant property consists of \$36,000.00 in United States currency seized from a black 2004 Lexus ES330 on November 14, 2017, during a traffic stop on westbound Interstate 80 at approximately 126th Street, in Omaha, Douglas County, Nebraska. The lone occupant was the driver, Gary Robert Miller. The Defendant property is presently in the custody of the U.S. Marshals Service at Omaha, Nebraska.

Jurisdiction and Venue

3. This Court has subject matter jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355(a). This Court also has jurisdiction over this particular action under 21 U.S.C. § 881.

4. This Court has *in rem* jurisdiction over the Defendant property pursuant to 28 U.S.C. § 1355(b)(1)(A) because acts or omissions giving rise to the forfeiture occurred in this district.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1355(b)(1)(A) because acts or omissions giving rise to the forfeiture occurred in this district.

Basis for the Forfeiture

6. The Defendant property is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6) because it constitutes 1) money, negotiable instruments, securities and other things of value furnished or intended to be furnished in exchange for a controlled substance in violation of the Controlled Substances Act, 2) proceeds traceable to such an exchange or 3) money, negotiable instruments and securities used and intended to be used to facilitate a violation of the Controlled Substances Act.

Facts

7. On November 14, 2017, Douglas County Sheriff's Office Deputy Dave Wintle was patrolling Interstate 80 in Douglas County, Nebraska. Deputy Wintle stopped a 2004 Lexus for a traffic violation on westbound Interstate 80 at 126th Street in Omaha, Douglas County, Nebraska. The lone occupant was Gary Robert Miller. Miller stated he was traveling from Kearney, Nebraska, to see his cousin for a couple of days. Deputy Wintle observed a cell phone activated

in a map application showing 300 miles to a destination (Omaha, Nebraska, to Kearney, Nebraska, is 169 miles.) Deputy Wintle asked Miller if he was going any place other than Kearney. Miller stated he was not. During their conversation, Miller's face was flushed. Deputy Wintle asked Miller if there were any drugs, *i.e.* marijuana, cocaine, methamphetamine or heroin, or any cash over \$10,000.00, in the vehicle. Miller replied, "No."

8. Miller denied Deputy Wintle's request to search the vehicle. Deputy Wintle utilized his Nebraska-certified drug detection canine to sniff the exterior of Miller's vehicle. The dog indicated to the odor of a controlled substance coming from the vehicle.

9. In the vehicle's trunk, deputies located a large duffle bag with an odor of marijuana, containing eight, rubber-banded bundles of U.S. currency totaling \$36,000.00. Deputy Wintle asked Miller about the currency. Miller said \$18,000.00 belonged to him and \$18,000.00 belonged to his business partner, Mycoe Andrews. Miller stated Andrews and he own an entertainment business called A List Music Group. Miller said he was traveling to sign up musicians.

10. Deputy Wintle spoke with Andrews by telephone. Andrews verified Miller and he are business partners. Andrews stated he did not know where Miller was on that date. He also said Miller did not have any of Andrew's money.

11. In a post-Miranda interview, Miller stated he grossed \$40,000.00 to \$50,000.00 in 2016, but did not file income taxes. Miller stated he was going to Kearney, Nebraska, to visit his cousin and was then going to Las Vegas or Los Angeles to recruit musicians. Miller asked if there was a form he could sign disclaiming the money. Miller signed a disclaimer form, indicating he had no ownership in the seized currency.

12. Deputy Wintle used his Nebraska-certified narcotics detection canine to perform a discretionary sniff on the \$36,000.00. The dog indicated to the odor of a controlled substance coming from the money. The seized \$36,000.00 is the Defendant currency in this case.

Claim for Relief

WHEREFORE, the Plaintiff, United States of America, prays the Defendant property be proceeded against for forfeiture in accordance with the laws, regulations and rules of this Court; that due notice be given to all interested parties to appear and show cause why forfeiture should not be decreed; that the Defendant property be condemned, as forfeited, to the United States of America and disposed of according to law and regulations; that the costs of this action be assessed against the Defendant property; and for such other and further relief as this Court may deem just and equitable.

UNITED STATES OF AMERICA,
Plaintiff

JOSEPH P. KELLY
United States Attorney

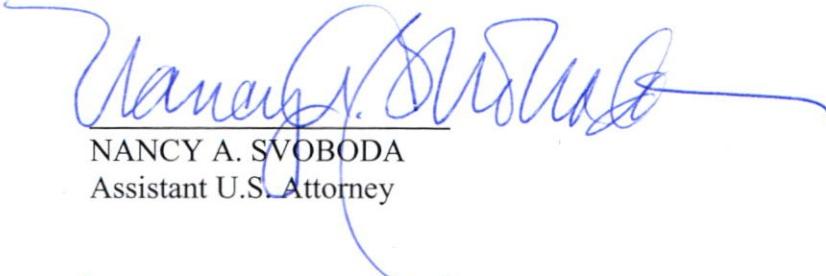
By:


NANCY A. SVOBODA (#17429)
Assistant U.S. Attorney
1620 Dodge Street, Suite 1400
Omaha, Nebraska 68102-1506
Tel: (402) 661-3700
Fax: (402) 345-5724
Email: nancy.svoboda@usdoj.gov

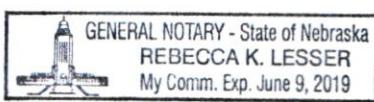
VERIFICATION

STATE OF NEBRASKA)
)
) ss.
COUNTY OF DOUGLAS)

Pursuant to Rule C(2), Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Assistant United States Attorney for the District of Nebraska, Nancy A. Svoboda, being first duly sworn, deposes and states the facts set forth herein are true and correct according to the best of her knowledge and belief.

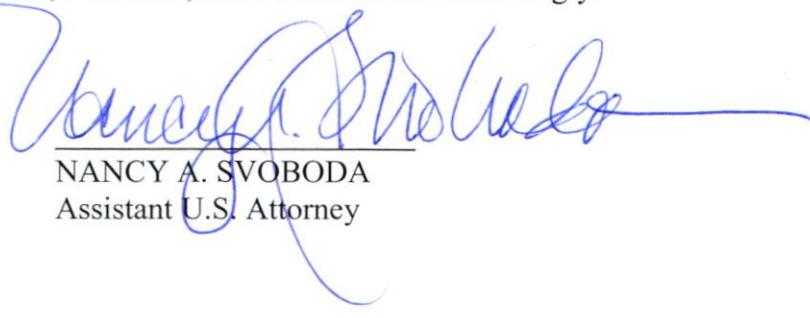

NANCY A. SVOBODA
Assistant U.S. Attorney

Subscribed and sworn to before me this 8th day of May, 2018.




Notary Public

Pursuant to the rules of this Court, the United States of America hereby requests the trial of the above and foregoing action be held in Omaha, Nebraska, and be calendared accordingly.


NANCY A. SVOBODA
Assistant U.S. Attorney